

AMENDED IN SENATE MAY 29, 2013

AMENDED IN SENATE MAY 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 306

Introduced by Assembly Member Lowenthal

February 12, 2013

An act to amend Section 34620 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 306, as amended, Lowenthal. Vehicles: motor carrier.

Existing law prohibits a motor carrier of property from operating a commercial motor vehicle on any public highway unless the carrier holds a valid motor carrier permit, as specified. Existing law also prohibits a person from contracting with, or otherwise engaging the services of, a motor carrier of property unless that motor carrier holds a valid motor carrier permit. A violation of these provisions is a crime.

This bill would additionally prohibit the retrieval of a vehicle by, or the release of a vehicle to, a motor carrier of property using a tow truck, as defined, until the retrieving motor carrier provides a copy of its motor carrier permit to the releasing motor carrier. The bill would also require the motor carrier releasing the vehicle to maintain a copy of the motor carrier permit for a period of 2 years, as specified. The bill would exempt from these provisions a person licensed under the Collateral Recovery Act. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations and to pay the fees required by these provisions. Existing law also prohibits a motor carrier of property from contracting or subcontracting with, or otherwise engaging the services of, another motor carrier of property, until the contracted motor carrier of property provides certification of compliance with safety inspection, certificate, permit, and financial responsibility requirements. A violation of these provisions is a crime.~~

~~This bill would additionally prohibit a motor carrier of property or broker of construction trucking services from allowing a vehicle to be retrieved from or delivered to its premises by a motor carrier of property until the contracted motor carrier of property provides the above-described certification of compliance, except as provided. By expanding the scope of a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 34620 of the Vehicle Code is amended to*
- 2 *read:*
- 3 34620. (a) Except as provided in subdivision (b) and Section
- 4 34622, a motor carrier of property shall not operate a commercial
- 5 motor vehicle on any public highway in this state, unless it has
- 6 complied with Section 34507.5 and has registered with the
- 7 department its carrier identification number authorized or assigned
- 8 thereunder, and holds a valid motor carrier permit issued to that
- 9 motor carrier by the department. The department shall issue a
- 10 motor carrier permit upon the carrier's written request, compliance
- 11 with Sections 34507.5, 34630, and 34640, and subdivisions (e)

and (h) of Section 34501.12 for motor carriers listed in that section, and the payment of the fee required by this chapter.

(b) A person shall not contract with, or otherwise engage the services of, a motor carrier of property, unless that motor carrier holds a valid motor carrier of property permit issued by the department. A motor carrier of property or broker of construction trucking services, as defined in Section 3322 of the Civil Code, shall not contract or subcontract with, or otherwise engage the services of, a motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by this section, of compliance with subdivision (a). This certification shall be completed by the contracted motor carrier of property and shall include a provision requiring the contracted motor carrier of property to immediately notify the person to whom they are contracted if the contracted motor carrier of property's permit is suspended or revoked. A copy of the contracted motor carrier of property's permit shall accompany the required certificate. The Department of the California Highway Patrol shall, by regulation, prescribe the format for the certificate and may make available an optional specific form for that purpose. The certificate, or a copy thereof, shall be maintained by each involved party for the duration of the contract or period of service plus two years, and shall be presented for inspection at the location designated by each carrier under Section 34501.10, immediately upon the request of an authorized employee of the Department of the California Highway Patrol.

(c) (1) *A motor carrier of property shall not retrieve a vehicle through the use of a tow truck, as defined in subdivision (a) of Section 615, from the premises of another motor carrier of property until the retrieving motor carrier provides a copy of its motor carrier permit to the releasing motor carrier.*

(2) *A motor carrier of property shall not release a vehicle to another motor carrier of property utilizing a tow truck, as defined in subdivision (a) of Section 615, until the releasing motor carrier obtains a copy of the motor carrier permit from the retrieving motor carrier. The motor carrier releasing the vehicle shall maintain a copy of the motor carrier permit for a period of two years after the transaction, and, upon the request of an authorized employee of the Department of the California Highway Patrol,*

1 *shall immediately present the permit for inspection at the location*
2 *designated by the releasing motor carrier under Section 34501.10.*

3 *(3) This subdivision does not apply to a person licensed pursuant*
4 *to the Collateral Recovery Act (Chapter 11 (commencing with*
5 *Section 7500) of Division 3 of the Business and Professions Code).*

6 *SEC. 2. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution because*
8 *the only costs that may be incurred by a local agency or school*
9 *district will be incurred because this act creates a new crime or*
10 *infraction, eliminates a crime or infraction, or changes the penalty*
11 *for a crime or infraction, within the meaning of Section 17556 of*
12 *the Government Code, or changes the definition of a crime within*
13 *the meaning of Section 6 of Article XIII B of the California*
14 *Constitution.*

15 ~~SECTION 1. Section 34620 of the Vehicle Code is amended~~
16 ~~to read:~~

17 ~~34620. (a) Except as provided in subdivision (b) and Section~~
18 ~~34622, a motor carrier of property shall not operate a commercial~~
19 ~~motor vehicle on any public highway in this state, unless it has~~
20 ~~complied with Section 34507.5 and has registered with the~~
21 ~~department its carrier identification number authorized or assigned~~
22 ~~thereunder, and holds a valid motor carrier permit issued to that~~
23 ~~motor carrier by the department. The department shall issue a~~
24 ~~motor carrier permit upon the carrier's written request, compliance~~
25 ~~with Sections 34507.5, 34630, and 34640, and subdivisions (e)~~
26 ~~and (h) of Section 34501.12 for motor carriers listed in that section,~~
27 ~~and the payment of the fee required by this chapter.~~

28 ~~(b) A person shall not contract with, or otherwise engage the~~
29 ~~services of, a motor carrier of property, unless that motor carrier~~
30 ~~holds a valid motor carrier of property permit issued by the~~
31 ~~department. Except as provided in subdivision (c), a motor carrier~~
32 ~~of property or broker of construction trucking services, as defined~~
33 ~~in Section 3322 of the Civil Code, shall not contract or subcontract~~
34 ~~with, or allow a vehicle to be retrieved from or delivered to its~~
35 ~~premises by, or otherwise engage the services of, a motor carrier~~
36 ~~of property, until the contracted motor carrier of property provides~~
37 ~~certification in the manner prescribed by this section, of compliance~~
38 ~~with subdivision (a). This certification shall be completed by the~~
39 ~~contracted motor carrier of property and shall include a provision~~
40 ~~requiring the contracted motor carrier of property to immediately~~

1 ~~notify the person to whom they are contracted if the contracted~~
2 ~~motor carrier of property's permit is suspended or revoked. A copy~~
3 ~~of the contracted motor carrier of property's permit shall~~
4 ~~accompany the required certificate. The Department of the~~
5 ~~California Highway Patrol shall, by regulation, prescribe the format~~
6 ~~for the certificate and may make available an optional specific~~
7 ~~form for that purpose. The certificate, or a copy thereof, shall be~~
8 ~~maintained by each involved party for the duration of the contract~~
9 ~~or period of service plus two years, and shall be presented for~~
10 ~~inspection at the location designated by each carrier under Section~~
11 ~~34501.10, immediately upon the request of an authorized employee~~
12 ~~of the Department of the California Highway Patrol.~~

13 ~~(e) A person licensed pursuant to the Collateral Recovery Act~~
14 ~~(Chapter 11 (commencing with Section 7500) of Division 3 of the~~
15 ~~Business and Professions Code) may deliver or retrieve a vehicle~~
16 ~~to or from the premises of a motor carrier of property without~~
17 ~~providing certification of compliance with subdivision (a).~~

18 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
19 ~~Section 6 of Article XIII B of the California Constitution because~~
20 ~~the only costs that may be incurred by a local agency or school~~
21 ~~district will be incurred because this act creates a new crime or~~
22 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
23 ~~for a crime or infraction, within the meaning of Section 17556 of~~
24 ~~the Government Code, or changes the definition of a crime within~~
25 ~~the meaning of Section 6 of Article XIII B of the California~~
26 ~~Constitution.~~